

MEMO ENDORSED
(p. 2)

KIMBERLY C. TAVARES
Attorney & Counselor at Law

955 Coney Island Avenue, Suite 210

Brooklyn, NY. 11230

Office: 917.300.8435

Fax: 718.310.3183

E-mail: kcoleman.tavares@gmail.com

PLAINTIFF'S FIRST LETTER MOTION FOR CERTIFIED
RECORD BE FILED UNDER SEAL

March 14, 2025

By ECF

Hon. Judge H. Jennifer Rearden

United States District Court

Southern District Court of New York

500 Pearl Street

New York, NY 10007

RE: *M.K. et al. v New York City Department of Education*
1:24 CV-04900 (JHR)

Dear Judge Rearden:

I am representing the Plaintiff's in the above-referenced matter. I am submitting this letter motion to respectfully request that the Certified Record from the Office of State Review attached hereto for filing in the above-entitled matter be filed under seal pursuant to Federal Rule of Civil Procedure 5.2(d) as the record contains sensitive and confidential information pertaining to the sensitive medical and educational history of a minor child which outweighs the public's right to information.

Pursuant to the Individuals with Disabilities Education Act (IDEA), *20 USC Sec. 1417(c)* and the Family Educational Rights And Privacy Act (FERPA), *20 U.S.C. Sec. 1232g*, the confidentiality of student records must be maintained to protect the privacy of the student and their family.

K.H. is a minor who receives special education services and related supports under the IDEA. Their educational records contain sensitive information regarding individualized education program (IEP) services, counseling, social-emotional development and related medical history. Public disclosure of these records would not only violate federal confidentiality protections but could also result in undue harm to the student's privacy and well-being.

Court's in this district and across the country have routinely recognized the compelling interest in protecting the identities and private information of children with disabilities in proceedings involving IDEA claims. *See, e.g., P.M. v. Evans-Brant Cent. Sch. Dist., No. 08-CVB-168A, 2008 WL 4379490 (W.D.N.Y. Sept. 22, 2008)* Given the substantial privacy interests at stake, allowing the Certified Record to be filed under seal is necessary and appropriate to ensure compliance with federal law and to safeguard the student's identity.

For the foregoing reasons, I respectfully request that the Court issue an order sealing the student's educational and medical records in this case. Please do not hesitate to contact me should the Court require additional information.

Thank you for your time and consideration.

Respectfully submitted,

/s/

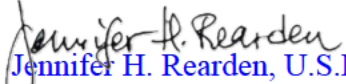
Kimberly C. Tavares
Counsel for Plaintiffs

**Cc: All Counsel of record
(via ECF)**

Although “[t]he common law right of public access to judicial documents is firmly rooted in our nation’s history,” this right is not absolute, and courts “must balance competing considerations against” the presumption of access. *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006) (internal quotation marks omitted); *see also Nixon v. Warner Commc’ns., Inc.*, 435 U.S. 589, 599 (1978) (“[T]he decision as to access is one best left to the sound discretion of the trial court, a discretion to be exercised in light of the relevant facts and circumstances of the particular case.”). Courts frequently permit filings under seal in IDEA actions in order to protect the privacy interests of minor plaintiffs, including in maintaining the confidentiality of their medical and other sensitive information. *See, e.g., J.L. on behalf of J.P. v. New York City Dep’t of Educ.*, No. 17 Civ. 7150 (PAC) (KHP), 2024 WL 291218, at *3 (S.D.N.Y. Jan. 25, 2024). The administrative record here contains confidential and personally identifiable details related to the minor child, including “individualized education program . . . services, counseling, social-emotional development and related medical history.” Because the privacy interests inherent in this information are high, and the public’s interest in accessing this information is relatively low, Plaintiffs’ application is GRANTED.

The Clerk of Court is directed to maintain ECF No. 28 under seal and terminate ECF No. 27.

SO ORDERED.


Jennifer H. Rearden, U.S.D.J.
Dated: April 4, 2025